



Department of Transportation

National Highway Traffic Safety Administration

[Docket No. NHTSA-2010-0042; Notice 2]

Graco Children's Products Inc., Grant of Petition for  
Decision of Inconsequential Noncompliance

**AGENCY:** National Highway Traffic Safety Administration, DOT

**ACTION:** Grant of Petition

**SUMMARY:** Graco Children's Products Inc. (Graco), has determined that certain warning labels attached to detachable accessory pillows that it sold with MyRide™ 65 line child restraint systems produced between April, 2009, and October, 2009, failed to meet the flammability requirements of Federal Motor Vehicle Safety Standards (FMVSS) No. 213<sup>1</sup>. Graco estimates that about 90,000 child restraint systems may be affected. Graco filed an appropriate report pursuant to 49 CFR Part 573 *Defect and Noncompliance Responsibility and Reports* on November 13, 2009.

Pursuant to 49 U.S.C. 30118(d) and 30120(h) and the rule implementing those provisions at 49 CFR Part 556, Graco has petitioned for an exemption from the notification and remedy requirements of 49 U.S.C. Chapter 301 on the basis that this noncompliance is inconsequential to motor vehicle safety.

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<sup>1</sup> Graco describes the noncompliance as one with FMVSS No. 302. However, FMVSS No. 302 does not in itself apply to motor vehicle equipment. Paragraph S4 of FMVSS No. 302 is invoked by reference in FMVSS No. 213, therefore, this noncompliance is a noncompliance with FMVSS No. 213 not FMVSS No. 302.

Notice of receipt of the petition was published, with a 30-day public comment period, on April 13, 2010 in the Federal Register (75 FR 18952). One comment was received from Dean L. Hoppe. To view the petition, the comment, and all supporting documents log onto the Federal Docket Management System (FDMS) website at: <http://www.regulations.gov/>. Then follow the online search instructions to locate docket number "NHTSA-2010-0042."

For further information on this decision contact Mr. Zachary R. Fraser, Office of Vehicle Safety Compliance, the National Highway Traffic Safety Administration (NHTSA), telephone (202) 366-5754, facsimile (202) 366-7002.

Affected are all models of MyRide™ 65 convertible child restraint systems manufactured between April, 2009, and October, 2009, in the Company's Mexico facility. The Company estimated that approximately 90,000 child restraint systems may be affected, and of this total, 50,000 are potentially in use by its customers (consumers) and 40,000 were with retailers.

Graco describes the MyRide™ 65 child restraint system as being manufactured with a detachable accessory pillow, and this pillow includes a warning label (the "pillow label") regarding appropriate use of the pillow for children of a certain age range. The pillow label warns consumers not to use the pillow when the MyRide™ 65 child restraint system is being used by children weighing more than 40 lbs (18.1 kg). The pillow, which

is removable, is attached to the MyRide™ 65 child restraint system by a hook and loop fastener material, one side of which is sewn onto a "tail" of the pillow and the other onto the top of the child restraint system above the child's head.

Based on its internal investigation, Graco believes that the noncompliance is that a pillow label sewn onto the detachable head pillow of certain MyRide™ 65 child restraint systems does not comply with paragraph S5.7 of FMVSS No. 213.

After discovering that a recent lot of pillow labels delivered in late October 2009 to the Company's Mexico facility had not been properly treated for flame resistance, Graco's plant management began an investigation. They immediately started reviewing all pillow label lots previously delivered to its Mexico facility since April 2009, the production start date for the MyRide™ line child restraint systems, to determine the extent of the noncompliance among its lots of pillow labels.

Graco found that its noncompliant pillow labels were manufactured by a sub-supplier to Graco's normal pillow label supplier. Graco has determined that the sub-supplier did not follow Graco's production specifications, and as a result, failed to meet the requirements of FMVSS No. 213. Graco also concluded that that sub-supplier was the only one providing the noncompliant pillow labels.

Graco also found that all other labels and materials for its MyRide™ 65 child restraint systems were provided by Graco's regular supplier itself and not the sub-supplier. In addition to its investigation, the Company's plant management also examined and verified through laboratory testing, that all other material components used in the MyRide™ 65 child restraint systems comply with the standards of FMVSS No. 213. Graco added that new plant management at its Mexico plant has implemented more robust quality controls to prevent such problems from happening in the future and that Graco has received no complaints, reports or any other information about adverse impacts from this noncompliance from consumers or any other outside source.

Since the discovery of the noncompliance, Graco indicated that it has taken steps to ensure that every MyRide™ 65 child restraint system subsequently released for shipment has been manufactured with labels compliant with all applicable safety standards, including FMVSS No. 213. In addition, Graco stopped all shipments of the MyRide™ 65 child restraint systems in its possession when the noncompliance was discovered and replaced the detachable accessory pillows with pillows manufactured with a pillow label compliant with the FMVSS No. 213 prior to delivery.

Graco believes that the noncompliance of the pillow label to meet the requirements of FMVSS No. 213 is inconsequential to overall motor vehicle safety for the following reasons:

When reviewing the accessory pillow at issue, including its size, location, function and overall design, the risk of injury resulting from the noncompliant Label on the detachable accessory pillow is inconsequential to the overall safety of the MyRide child restraint system. Specifically, the Label is a physically small component of the child restraint system located in an area not likely to be exposed to open flame. In fact, the potential for the Label serving as an ignition point for a larger conflagration is near zero. This circumstance, along with the compliant status of all other fabric and label components of the MyRide child restraint system, render the Label's noncompliance inconsequential to motor vehicle safety.

As noted above, the Label is a rectangular shaped tag measuring approximately 3 inches by 1¼ inches. The area of the Label is insignificant with respect to the over two yards of fabric that is used to make the pad and the "soft goods" for the MyRide child restraint system. Proportionally, the percentage of material is less than 1/100% of the total surface area of the child restraint system. Moreover, all other fabric, including other warning labels for the MyRide child restraint system, are flame resistant. The small size of affected material renders the likelihood of ignition of this one Label highly untenable.

In addition . . . the Label is also located in an area that makes it highly unlikely to be exposed to an open flame without the passenger compartment of the car being already engulfed in flame . . . When put in its proper place . . . the Label is surrounded by flame resistant material and in a location interior to the overall child restraint system design . . ."

Moreover . . . the owner's manual and instructions for the MyRide child restraint system expressly states that the pillow is not to be used with any child over 18.1 kg (40 lbs) placed into the MyRide child

restraint system. Accordingly, a significant number of MyRide child restraint systems are not used with the pillow, thereby further reducing an already low risk of flammability.

. . . the MyRide . . . child restraint is not designed to be easily removed from a motor vehicle once installed . . . the MyRide child restraint system is tethered into the child restraint system or is installed for use with the motor vehicle's type II lap and shoulder belt. Therefore, the only risk of exposure to an ignition source would be while installed in a motor vehicle where pinpoint open flame in the upper portion of the child restraint system on one particular side is highly unlikely.

Graco has considered the potential for variety of potential ignition sources that may be exposed to the tag. The Company believes that the likelihood of the Label coming accidentally in contact with any type of ignition device is extremely low. Graco's analysis also included potential ignition from cigarettes or other smoking materials...

Graco also mentioned that real world reports support the Company's belief that the noncompliant pillow labels are not a risk to safety. Graco said it has received no reports or complaints of a fire involving the MyRide™ 65 child restraint system or any of its components. Graco added, "The insignificant opportunity of a fire hazard to a child from ignition of this small tag, located in the interior portion of the child restraint system contained inside a motor vehicle supports Graco's assertion regarding the inconsequential nature of this noncompliance."

In summation Graco restated its belief that based on the size of the pillow label, its location, compliance of all other

labels and fabric with FMVSS No. 213, and the nearly impossible opportunities for direct ignition of the pillow label only, that the described noncompliance of the pillow label to meet the requirements of FMVSS No. 213 is inconsequential to motor vehicle safety. Thus, Graco requests that NHTSA grant its petition to exempt it from providing notification of noncompliance as required by 49 U.S.C. 30118 and remedying the noncompliance as required by 49 U.S.C. 30120.

**NHTSA DECISION:**

*Requirement Background*

The purpose of the flammability requirements is to reduce deaths and injuries to motor vehicle occupants caused by vehicle fires, especially those originating in the interior of the vehicle from sources such as matches or cigarettes. S5.7 of FMVSS No. 213 requires that each material used in a child restraint system shall conform to the flammability requirements contained in S4 of FMVSS No. 302. S4 contains flammability requirements to measure the burn rate of specific components of vehicle occupant compartments.

*NHTSA's Analysis of Graco's Reasoning*

Based on Dorel's explanation in its petition, certain warning labels sewn to a detachable pillow provided with the Dorel MyRide 65 child restraint system did not comply with the flammability requirements contained in FMVSS No. 213 and No.

302. Dorel stated that the subject warning labels were supplied by a sub-supplier of Dorel's usual supplier of pillow warning labels and were not properly treated for flammability resistance. Dorel concludes that since the warning labels were not properly treated for flammability resistance then the labels are not in compliance with FMVSS No. 213.

Dorel states that the noncompliance of the pillow label to the requirements of FMVSS No. 213 is inconsequential to overall motor vehicle safety. The size, location, function and overall design of the pillow at issue, together with the low risk of injury resulting from the noncompliant label on the detachable pillow, is inconsequential to the overall safety of the MyRide child restraint system. Since the label is physically small (3 inches by 1¼ inches) the likelihood of ignition is negligible, and the label is surrounded by flame resistant materials. Graco considered a variety of potential ignition sources that may be exposed to the label and believes that the likelihood of the label coming into contact with any type of ignition source is extremely low, including the potential ignition from cigarettes or other smoking materials.

#### *NHTSA Conclusions*

There appears to be an insignificant safety risk created by the noncompliance. The underlying concern is that the label attached to the detachable pillow could ignite since it was not



treated with flame resistant material. But the relatively small size of the label, together with its proximity to other materials on the child restraint system that have been treated with flame resistant materials, renders the likelihood of ignition for this one label extremely low.

There appears to be no significant safety risk caused by the noncompliance.

#### *NHTSA's Response to the Comment*

In its comments to the docket, Hoppe did not specifically address the pillow warning label noncompliance that is the essence of the Graco petition. Instead he applauded Graco and NHTSA for enforcing the applicable safety standards.

Because Hoppes' comments did not provide any information addressing Graco's noncompliance that is the essence of its petition, Hoppes' comments do not support denying the subject petition.

#### *Decision*

After a review of Graco's arguments and Dean L. Hoppe's comment, NHTSA is convinced that Graco has met its burden of demonstrating that the noncompliance does not present a significant safety risk. Therefore, NHTSA agrees with Graco that this specific noncompliance is inconsequential to motor vehicle safety.

In consideration of the foregoing, NHTSA has decided that Graco has met its burden of persuasion that the FMVSS No. 213 noncompliance in the child restraint systems identified in Graco's Noncompliance Information Report is inconsequential to motor vehicle safety. Accordingly, Graco's petition is granted and the petitioner is exempted from the obligation of providing notification of, and a remedy for, that noncompliance under 49 U.S.C. 30118 and 30120.

NHTSA notes that the statutory provisions (49 U.S.C. 30118(d) and 30120(h)) that permit manufacturers to file petitions for a determination of inconsequentiality allow NHTSA to exempt manufacturers only from the duties found in sections 30118 and 30120, respectively, to notify owners, purchasers, and dealers of a defect or noncompliance and to remedy the defect or noncompliance. Therefore, this decision only applies to the car child restraint systems<sup>2</sup> that Graco no longer controlled at the time that it determined that a noncompliance existed in the subject vehicles.

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<sup>2</sup> Graco's petition, which was filed under 49 CFR Part 556, requests an agency decision to exempt Graco as a manufacturer from the notification and recall responsibilities of 49 CFR Part 573 for the affected child restraint systems. However, a decision on this petition cannot relieve distributors and dealers of the prohibitions on the sale, offer for sale, or introduction or delivery for introduction into interstate commerce of the noncompliant child restraint systems under their control after Graco notified them that the subject noncompliance existed.

**Authority:** (49 U.S.C. 30118, 30120: delegations of authority at CFR 1.50 and 501.8)

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Claude H. Harris, Director  
Office Of Vehicle Safety Compliance

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